



July 2015

WEST VIRGINIA INFORMATIONAL LETTER

NO. 193

TO: All Insurance Companies Doing Business in the State of West Virginia, Insurance Trade Associations, Insurance Media Publications and Other Interested Persons

RE: Minimum Financial Responsibility Limits & UM/UIM Offer Forms

The purpose of this Informational Letter is to advise interested parties of the increased minimum financial responsibility limits for motor vehicles and provide revised forms with respect to the optional limits of uninsured motor vehicle (UM) and underinsured motor vehicle (UIM) coverages.

I. FINANCIAL RESPONSIBILITY LIMITS

A. INCREASED LIMITS

During the 2015 regular session, the West Virginia Legislature enacted House Bill 2790. This legislation raised the minimum financial responsibility limits for motor vehicles to the following levels:

- \$25,000 because of bodily injury to or death of one person in any one accident;
- \$50,000 because of bodily injury to or death of two or more persons in any one accident (subject to the limit for one person); and
- \$25,000 because of injury to or destruction of property of others in any one accident.

The new limits become effective on **January 1, 2016**. However, pursuant to W. Va. Code § 17D-4-2(b), “proof of financial responsibility provided by an insurance policy in effect on December 31, 2015 in the minimum amounts required in subdivision (a) of this section [(i.e., current minimum limits)] shall continue to provide adequate proof of financial responsibility required by this chapter until the policy expires or is renewed.”¹ Such policies shall hereinafter be referred to as “Extended Policies.”

¹ The Insurance Commissioner considers “expired” policies to include cancelled policies in this context.



The Insurance Commissioner notes that W. Va. Code § 17D-4-7, as amended by House Bill 2790 and pertaining to the satisfaction of judgments, does not directly address Extended Policies. However, it is the opinion of the Commissioner that the legislative intent, as clearly set forth in W. Va. Code § 17D-4-2(b), necessitates the applicability of the current financial responsibility limits referenced in W. Va. Code § 17D-4-7(a) with respect to the satisfaction of judgments that involve Extended Policies.

B. EFFECT OF NEW LIMITS ON UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGE OFFERS

House Bill 2790 further addressed the mandatory offers of UM and UIM coverages in the context of the increased minimum financial responsibility limits:

“For insurance policies in effect on December 31, 2015, including motor vehicle insurance policies and liability policies that are of an excess or umbrella type that cover automobile liability, insurers are not required to make a new offer of uninsured and underinsured motor vehicle coverage upon the renewal if the liability coverage is increased solely to meet the requirements of the increased minimum required financial responsibility limits set forth in subdivision (b), section two, article four, chapter seventeen-d of this code. Those insurers that have issued policies that carry limits of coverage below the minimum required financial responsibility limits in effect on December 31, 2015 shall increase such limits to an amount equal to or above the new minimum required financial responsibility limits when the policy is renewed but not later than December 31, 2016.” W. Va. Code § 33-6-31(m).

“[F]or insurance policies in effect on December 31, 2015, insurers are not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as described in this section on any insurance policy to comply with the amount of the minimum required financial responsibility limits set forth in subsection (b), section two, article four, chapter seventeen-d of this code. All such offer forms that were executed prior to January 1, 2016, shall remain in full force and effect.” W. Va. Code § 33-6-31d(f).

II. UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGE

A. COVERAGE OPTIONS IN WEST VIRGINIA – MANDATORY OFFERS

1. UNINSURED MOTOR VEHICLE COVERAGE

Bodily Injury
Per Person

Bodily Injury
Per Accident

Property Damage
Per Accident

Option #1:

Amount up to limits of insured's liability coverage but not less than \$25,000

Amount up to limits of insured's liability coverage but not less than \$50,000

Amount up to limits insured's liability coverage but not less than \$25,000

Option #2:

\$100,000

\$300,000

\$50,000

2. UNDERINSURED MOTOR VEHICLE COVERAGE

Bodily Injury

Per Person

Bodily Injury

Per Accident

Property Damage

Per Accident

Amount up to limits of
insured's liability coverage

Amount up to limits of
insured's liability coverage

Amount up to limits
insured's liability coverage

B. WHEN INSURER MUST PROVIDE UM AND UIM OPTION FORMS

Subsections (b) and (e) of W. Va. Code § 33-6-31d require that the UM and UIM forms prescribed by the Insurance Commissioner must be provided by the insurer to a named insured:

- Upon application for insurance either by:
 - (a) Hand delivery to the prospective named insured, or
 - (b) By mail with the first premium notice to a named insured; and
- Upon the request of any named insured for different coverage limits.

In addition to the delivery methods named above, delivery may also be accomplished by electronic delivery to an applicant or a prospective named insured provided that such delivery is in compliance with the Uniform Electronic Transactions Act, W. Va. Code § 39A-1-1 *et seq.*

For policies issued on or after January 1, 2016, or if a named insured requests different coverage limits on or after January 1, 2016, insurers should use the revised forms contained herein. The previous versions of the forms, as provided in Informational Letter 121, should be used for policies issued on or before December 31, 2015, or if a named insured requests different coverage limits on or before December 31, 2015.

As noted above, if a policy is in effect on December 31, 2015, insurers are not required to make a new offer of uninsured and underinsured motor vehicle coverage upon renewal in 2016 if the liability coverage is increased solely to meet the requirements of the increased minimum required financial responsibility limits set forth in W. Va. Code § 17D-4-2(b).

C. MANDATORY CONTENTS OF FORM

W. Va. Code § 33-6-31d(a) specifies that at a minimum the form must:

- Inform the named insured of the optional coverages being offered;
- Inform the named insured of the rate calculation for the optional coverages, including but not limited to, all levels and amounts of optional UM or UIM coverages;

- Provide the number of vehicles subject to the coverages; and
- Give the named insured the option to reject optional coverages.

D. PREPARATION OF FORMS BY INSURERS: COMPLIANCE REQUIREMENTS

Statutory compliance in the reproduction of the forms contained herein necessary to create a presumption of an effective offer of optional coverages and a knowing and intelligent election or rejection is achieved so long as the reproduced forms provide ALL the information set forth within the Insurance Commissioner's promulgated forms. It is not necessary that the reproduced forms be exact replicas of the Commissioner forms in font size and font shape. However, a minimum 10 point font size and a commonly used font face are required. Additionally, the portions of the Insurance Commissioner promulgated forms which appear in bold font style must likewise appear in bold font style on the insurer reproduced forms.

E. OFFER VALID FOR THIRTY DAYS; FORM MUST BE COMPLETED BY NAMED INSURED

A named insured or applicant must complete and return the completed forms to the insurer within **thirty days** or W. Va. Code § 33-6-31d(d) creates a presumption that such named insured has rejected or waived the optional UIM coverage or optional combined UM and UIM coverages on behalf of all insureds under the policy. The form must be completed, dated and signed by a named insured in his or her own handwriting or by marking the form and submitting an electronic signature in conformity with the Uniform Electronic Transactions Act, W. Va. Code § 39A-1-1 *et seq.*

F. INSTRUCTIONS FOR COMPLETION OF UM/UIM FORMS BY INSURER

The revised forms developed by the Insurance Commissioner pursuant to W. Va. Code § 33-6-31d consist of two parts: 1) The "Important Notice" and 2) Alternative Forms A and B.

The Important Notice must be provided in all circumstances where an offer of optional UM and UIM coverages are provided to an applicant or a named insured. The Important Notice must be combined by the insurer with either Form A or Form B, as appropriate.

Form A is to be used by insurers which offer "split limits" liability coverages. Form B is to be used by insurers which offer "single limit" liability coverage. Therefore, the form provided to a named insured would consist of either the:

- Important Notice and Form A (split limits); or
- Important Notice and Form B (single limit).

Both Forms A and B address uninsured coverage on the first page and underinsured coverage on the second page of the respective forms. The insurer must insert the following information on Form A or Form B, whichever applicable, in order to make an effective offer of optional UM and UIM coverages:

- The number of vehicles covered by the policy;
- Whether there is a multi-car discount used in the premium calculation;
- The agent's name (if the insurer is a direct marketer and no agent is used, the insurer should type in "none");
- The policy number;
- The policy period (*e.g.*, 3, 6 or 12 months);
- Coverage amounts up to the limits of the insured's liability coverage with corresponding premium amount; and
- The coverage and premium amounts for the policy period that would apply to each optional UM and UIM coverages offered by the insurer for which the named insured or applicant is eligible.

Insurers are not required to, but may, quote premiums as to UM and UIM coverage levels that are different than those required by W. Va. Code § 33-6-31. The blank spaces in the "Optional Offers" section are provided to allow the insurer some flexibility in completing the form.

Please e-mail any questions concerning this Informational Letter to Informational.Letters@wvinsurance.gov or call (304) 558-0401.



Michael D. Riley
Insurance Commissioner

IMPORTANT NOTICE

OFFER VOID AFTER THIRTY (30) DAYS

TO: PROPOSED POLICYHOLDERS (APPLICANT):

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOU HAVE DECIDED NOT TO BUY OPTIONAL UNDERINSURED COVERAGES OR OPTIONAL LIMITS OF UNINSURED MOTORIST COVERAGE ABOVE THAT REQUIRED BY LAW.

or

PRESENT POLICYHOLDERS:

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOUR COVERAGE WILL STAY THE SAME AS IT IS NOW. THIS IS AN OPPORTUNITY TO CHANGE THE COVERAGE YOU PRESENTLY HAVE.

UNinsured Motor Vehicle Coverage

The State of West Virginia requires that you purchase **Uninsured** motor vehicle coverage with limits not less of \$25,000 per person, \$50,000 per accident for uninsured bodily injury losses, and \$25,000 for uninsured property losses. The law also requires that you be given the opportunity to purchase higher limits.

Uninsured Motor Vehicle Coverage will protect you and passengers in your car if you are injured in an accident that was caused by an uninsured driver who was at-fault, or an unidentified driver who was at-fault.

UNDERinsured Motor Vehicle Coverage

The State of West Virginia **does not require** you to purchase **UNDERinsured** motor vehicle coverage. However, the law does state that you must be given the opportunity to purchase this coverage at limits as high as your liability coverage.

If you and passengers in your car are involved in an accident in which the other driver is legally at fault, the at-fault driver's insurance policy has the obligation to pay for your damages. It is not uncommon that the at-fault driver will not have enough liability insurance to pay for all the damages you have suffered. In order for you to protect yourself and others in your car, **UNDERinsured motor vehicle coverage** is available to you. This type of coverage will pay for the remainder of your damages up to your policy limits.

EXAMPLE:

You have purchased **UNDERinsured** motor vehicle coverage with limits of \$50,000 per person with a maximum of \$100,000 for any accident. You are in an accident where the other driver is at fault. The at-fault driver's liability policy limits are \$25,000 per person. You suffered damages of \$30,000. You receive \$25,000 from the at-fault driver's insurance. Since you still have outstanding losses of \$5,000, you can receive \$5,000 from your **UNDERinsured** motor vehicle coverage.

If you do not have **UNDERinsured motor vehicle coverage**, you may have found yourself in a situation where you did not have enough coverage to meet all of the losses you sustained in the accident.

UNINSURED MOTORISTS COVERAGE OFFER

(EXCEPT FOR THE SELECTION SECTION AND INSURED'S SIGNATURE, INSURER MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION.)

AGENT: _____

POLICY/BINDER NUMBER: _____

NUMBER OF VEHICLES SUBJECT TO PREMIUMS BELOW: _____

Rates [] **include** [] **do not include** multi-car discount.

Below are different limits and the _____ **month premium** available to you.

MANDATORY OFFERS (initial offer [A] represents limits no less than liability coverage):

<u>Bodily Injury Per Person</u>	<u>Bodily Injury Per Accident</u>	<u>Property Damage</u>	<u>Premium</u>	<u>SELECT ONE*</u>
\$ _____	\$ _____	\$ _____	[A] \$ _____	[A] _____
\$ <u>100,000</u>	\$ <u>300,000</u>	\$ <u>50,000</u>	[B] \$ _____	[B] _____

OPTIONAL OFFERS:

\$ _____	\$ _____	\$ _____	[C] \$ _____	[C] _____
\$ _____	\$ _____	\$ _____	[D] \$ _____	[D] _____
\$ _____	\$ _____	\$ _____	[E] \$ _____	[E] _____
\$ _____	\$ _____	\$ _____	[F] \$ _____	[F] _____

*A named insured or applicant must complete the selection part of this form in his or her own handwriting or by appropriate electronic means. The selection of coverage is binding on all persons covered under the policy. The selected limits apply until a change in the limits is requested.

I have read the IMPORTANT NOTICE, attached, on UNinsured motor vehicle coverage and understand how this coverage works. I have been given the opportunity to select limits of UNinsured motor vehicle coverage listed above. By making a selection, I am rejecting the other remaining offers of coverage.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

UNDERINSURED MOTORISTS COVERAGE OFFER

(EXCEPT FOR THE SELECTION SECTION AND INSURED'S SIGNATURE, INSURER MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.)

AGENT: _____

POLICY/BINDER NUMBER: _____

NUMBER OF VEHICLES SUBJECT TO PREMIUMS BELOW: _____

Rates ☐ include ☐ do not include multi-car discount.

Below are different limits and the _____ month premium available to you.

MANDATORY OFFER (limits no less than liability coverage):

<u>Bodily Injury</u> <u>Per Person</u>	<u>Bodily Injury</u> <u>Per Accident</u>	<u>Property</u> <u>Damage</u>	<u>Premium</u>	<u>SELECT ONE*</u>
\$ _____	\$ _____	\$ _____	[A] \$ _____	[A] _____

OPTIONAL OFFERS:

\$ _____	\$ _____	\$ _____	[B] \$ _____	[B] _____
\$ _____	\$ _____	\$ _____	[C] \$ _____	[C] _____
\$ _____	\$ _____	\$ _____	[D] \$ _____	[D] _____
\$ _____	\$ _____	\$ _____	[E] \$ _____	[E] _____
<u>REJECT</u>	<u>REJECT</u>	<u>REJECT</u>	[F] <u>REJECT</u>	[F] _____

*A named insured or applicant must complete the selection part of this form in his or her own handwriting or by appropriate electronic means. The selection or rejection of coverage is binding on all persons covered under the policy. The selected limits apply until a change in the limits is requested.

I have read the IMPORTANT NOTICE, attached, on UNDERinsured motor vehicle coverage and understand how this coverage works. I have been given the opportunity to select or reject limits of UNDERinsured motor vehicle coverage listed above. By making a selection for coverage, I am rejecting the other remaining offers of coverage.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

UNINSURED MOTORISTS COVERAGE OFFER

(EXCEPT FOR THE SELECTION SECTION AND INSURED'S SIGNATURE, INSURER MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION.)

AGENT: _____

POLICY/BINDER NUMBER: _____

NUMBER OF VEHICLES SUBJECT TO PREMIUMS BELOW: _____

Rates ☐ include ☐ do not include multi-car discount.

Below are different limits and the _____ **month premium** available to you.

MANDATORY OFFERS (initial offer [A] represents limit no less than liability coverage):

<u>Single Limit</u>	<u>Premium</u>	<u>SELECT ONE*</u>
\$ _____	[A] \$ _____	[A] _____
\$ <u>350,000</u>	[B] \$ _____	[B] _____

OPTIONAL OFFERS:

\$ _____	[C] \$ _____	[C] _____
\$ _____	[D] \$ _____	[D] _____
\$ _____	[E] \$ _____	[E] _____
\$ _____	[F] \$ _____	[F] _____

*A named insured or applicant must complete the selection part of this form in his or her own handwriting or by appropriate electronic means. The selection of coverage is binding on all persons covered under the policy. The selected limit applies until a change in the limit is requested.

I have read the IMPORTANT NOTICE, attached, on UNinsured motor vehicle coverage and understand how this coverage works. I have been given the opportunity to select the limits of UNinsured motor vehicle coverage listed above. By making a selection, I am rejecting the other remaining offers of coverage.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

UNDERINSURED MOTORISTS COVERAGE OFFER

(EXCEPT FOR THE SELECTION SECTION AND INSURED'S SIGNATURE, INSURER MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.)

AGENT: _____

POLICY/BINDER NUMBER: _____

NUMBER OF VEHICLES SUBJECT TO PREMIUMS BELOW: _____

Rates [] **include** [] **do not include** multi-car discount.

Below are different limits and the _____ **month premium** available to you.

MANDATORY OFFER (limit no less than liability coverage):

<u>Single Limit</u>	<u>Premium</u>	<u>SELECT ONE*</u>
\$ _____	[A] \$ _____	[A] _____
OPTIONAL OFFERS:		
\$ _____	[B] \$ _____	[B] _____
\$ _____	[C] \$ _____	[C] _____
\$ _____	[D] \$ _____	[D] _____
\$ _____	[E] \$ _____	[E] _____
_____ REJECT	[F] REJECT _____	[F] _____

*A named insured or applicant must complete the selection part of this form in his or her own handwriting or by appropriate electronic means. The selection or rejection of coverage is binding on all persons covered under the policy. The selected limits apply until a change in the limits is requested.

I have read the IMPORTANT NOTICE, attached, on UNDERinsured motor vehicle coverage and understand how this coverage works. I have been given the opportunity to select or reject the limits of UNDERinsured motor vehicle coverage listed above. By making a selection for coverage, I am rejecting the other remaining offers of coverage.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE